

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

THE BAY AGENCY, LLC, )  
                            )  
Plaintiff-Below     )  
Appellee,             )  
                            )  
v.                     ) C.A. No. 2005-09-434  
                            )  
NANCY WOLF-CHAPTER 6, LLC, )  
                            )  
Defendant-Below     )  
Appellant.             )

Submitted: June 26, 2006  
Decided: June 28, 2006

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**ORDER**

On September 21, 2005, Justice of the Peace Court 13 (hereinafter “JP Court”) entered a decision in favor of plaintiff-below appellee The Bay Agency, LLC (hereinafter “Bay”) in the amount of \$9,033.00 plus 9.75% interest and court costs. The JP Court held defendant-below appellant Nancy Wolf, Chapter 6, LLC (hereinafter “Chapter 6”) breached a management services contract (hereinafter “services contract”) which became effective for one-year period beginning July 16, 2003. Pursuant to section 4 and subsection (c) of the services contract, Bay alleged it was entitled to recover amounts

from Chapter 6 in lost commission due to Chapter 6 entering into a separate contract with another party on June 16, 2004, prior to the expiration of the one-year period.

### **PROCEDURAL POSTURE**

On September 23, 2005, Chapter 6 filed an appeal to this Court, which was incomplete but cured and properly filed on October 11, 2005. Service was perfected upon Bay by the Kent County Sheriff servicing the Secretary of State. This is reflected on the docket entry of December 2, 2005. On June 16, 2006, this Court received a facsimile from Brandon Markland (hereinafter “Markland”) on behalf of Bay indicating he docketed a foreign judgment with the JP Court for Bay and filed a Request for Garnishment of Non-Wages (hereinafter “Request for Garnishment”) with the Seventh District Court in Sangamon County, Illinois (hereinafter “Illinois District Court”) to garnish Chapter 6’s bank proceeds. On June 7, 2006, Chapter 6 filed a Motion to Vacate the garnishment (hereinafter “Motion to Vacate”) before the Illinois District Court on June 14, 2006.

Chapter 6 now moves for a Stay of Execution (hereinafter “Motion for Stay”) on the Justice of the Peace judgment. Markland opposes the Motion for Stay and argues that Chapter 6 made two false representations to the Illinois Court when presenting its Motion to Vacate: first, that Chapter 6 served Bay with the Motion to Vacate, and second, that Chapter 6 had already filed a Motion to Stay the JP Court judgment. The Illinois District Court granted Chapter 6 a two-week period Stay of execution pending the Delaware Court’s review of the matter. Markland attaches a copy of Chapter 6’s Motion to Vacate

where Chapter 6 states in the seventh paragraph, “Whereas, the judgment is stayed by the discretion of the Court until our motion to appeal is officially reviewed.”

On June 21, 2006, Chapter 6 filed an Application for an Expedited/Emergency Hearing (hereinafter “Application”) and its Motion for Stay and argues the JP Court never instructed Chapter 6 to post bond to stay the execution of judgment. Chapter 6 attaches to the face of the Application and Motion to Stay, a check in the amount of \$9,718.52. The Application and Motion for Stay further provide that Chapter 6, through its counsel, presented a Motion to Stay before the Illinois State Court “yesterday” (June 20, 2006), and reiterated the Illinois Court’s granting of a two-week time period to obtain a ruling from this Court. In conclusion, Chapter 6 moves this Court for a Stay of Execution of the JP Court judgment until the appeal *de novo* before this Court is heard on the merits.

### **CONCLUSION AND ORDER**

Pursuant to the Court of Common Pleas Civil Rule 62(c), appellant’s Motion for Stay of Execution upon posting of the supersedeas bond in the amount of \$9,718.152 is hereby GRANTED.

The parties are to file a stipulation of dismissal and distribution of proceeds by June 30, 2006, which is to provide for \$7,000.00 to Bay Agency and \$2,718.52 to Chapter 6, LLC.

SO ORDERED this 28<sup>th</sup> day of June, 2006

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Alex J. Smalls  
Chief Judge